

REMARKS

In the Office Action, the Examiner indicated that claims 1 through 37 are pending in the application and the Examiner rejected all claims.

Rejection of Claims under 35 U.S.C. §103(a)

On page 2 of the Office Action, the Examiner rejected claims 1, 6, 7, 14, 19, 20, 27, 32, and 33 under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 5,960,411 to Hartman et al. ("Hartman"). Further, on page 4 of the Office Action, the Examiner rejected claims 2-5, 10-13, 15-18, 23-26, 28-31, and 35-37 under 35 U.S.C. §103(a) as being unpatentable over Hartman et al. in view of Official Notice.

Claim 34

Applicant notes that no basis for rejection is given for claim 34. Since claim 34 depends from a rejected base claim, while its status as being rejected is clear, it is still unclear whether or not claim 34 would be allowable if rewritten in independent form. The Examiner is again respectfully requested to clarify the status of claim 34.

The Present Invention

The present invention provides a method and system for providing improved online comparison shopping from among two or more vendors. The claimed system is a front-end ordering system for two or more vendors. The present invention allows a customer to

purchase a list of items from one or more of the vendors supported by the system of the present invention. The goal of the present invention is to place an optimal or near-optimal order by ordering each item from a specific vendor of the system.

Particularly, the system of the present invention compiles a shopping list for the user which identifies specific items that the user wishes to purchase, such as the name of the product, manufacturer, model number, etc. Then the system allows the user to specify certain optimization criteria (shopping criteria) for obtaining an optimal shopping order based on the user's shopping list. Examples of the optimization criteria can include, but are not limited to, the lowest total cost including any tax and/or shipping charges, vendor preferences or dislikes, vendor shipment methods, delivery speed, etc.

Based on the user-specified optimization criteria and any optimization criteria pre-set by the system, the system optimizes the user's shopping list to produce an optimal shopping order using existing optimization techniques or programs. That is, the system is configured to generate automatically a single purchase order for purchasing all items on the shopping list, wherein the order satisfies the optimization criteria set by the user and the system. This optimization shopping order will identify a vendor for each of the items on the shopping list, from among the multiple vendors. The user is able to modify the generated optimal shopping order to reflect any last minute changes by the user. In certain situations, the system may be unable to generate an optimal shopping order because, e.g., no online vendors offer certain items on the shopping list. In these cases, the user is notified of the optimization failure and

the system can be configured to re-attempt the optimization process (e.g., after a certain time period) until an optimal shopping order is generated.

If the user approves the optimal shopping order, the shopping order is processed according to known techniques. For example, the shopping order is sent to specific vendors so that shipments of the items identified in the shopping order can be made. Each vendor system is configured to transmit their shipment tracking information to the present system. Then the user can view and monitor this shipment tracking information for all items in the shopping order from one website.

U.S. Patent No. 5,960,411 to Hartman et al.

U.S. Patent No. 5,960,411 to Hartman et al. ("Hartman") teaches a method and system for placing an order to purchase an item via the Internet. Rather than identifying an optimal shopping order from a shopping list, involving multiple vendors, Hartman teaches the optimization of shipping from a single vendor. The portion of Hartman relied upon by the Examiner, column 5, lines 27-55, illustrates a situation wherein a customer makes a first purchase from vendor A, and then makes a second purchase from vendor A. If both items are available, or are available within a predetermined period of time (e.g., if item A is available in two days, and item B is available in three days), then the system of Hartman will optimize the shipping by delaying the shipping of item A until item B is also available, and then ship the two together. This can result in reduced shipping costs for the customer.

The Examiner has not Established a *prima facie* Case of Obviousness

As set forth in the MPEP:

To establish a *prima facie* case of obviousness, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skilled in the art, to modify the reference or to combine reference teachings.

MPEP 2143

As noted above, the present invention provides the ability to comparison shop from among two or more vendors using a website. A shopping list of goods is compiled, and then optimization criteria are specified by the user. The offerings of the multiple vendors are then compared to the shopping list and, based upon the optimization criteria, vendors are selected from among the multiple vendors to fulfill the order. The claims, as amended, each recite the optimization of the shopping list based on offerings of multiple vendors ("said optimization criteria being applied to offerings of said specified items by at least two of said two or more vendors").

Prior to fulfillment of the order, the optimal shopping order (the list of the various vendors and the items being supplied by each vendor) are displayed to the user. Comparison as between multiple vendors and the optimization of the shopping list to produce an optimal shopping order fulfillable by the multiple vendors is expressly claimed in each of the independent claims.

Nothing in Hartman teaches or suggests the preparation and display of an optimized shopping order fulfillable by multiple vendors based on optimization criteria supplied by the customer. Hartman merely teaches the optimization of shipping from a single vendor based

upon the availability of purchased items. While this is a helpful feature, it is patentably distinct from the claimed invention.

The Examiner argues as follows:

Hartman teaches a method, system and computer program for providing online comparison shopping by a website system accessible by a user through a communication network, the method comprising the steps of: compiling a shopping list identifying specific items to be purchased (Figure 1C, items '106' and '107'); optimizing, by the website system, the shopping list to produce an optimal shopping order (column 5, lines 27-55).

This is not correct. Hartman simply teaches a method, system and computer program for placing an order by a website via a single action. There is no mention of "comparison shopping" in Hartman. Note that the order lists '106' and '107' of Figure 1C are not item lists supplied by the user for a single order, but rather the results of combining four single-action orders (see column 5, lines 40-50) into two two-item orders. The combining of orders to reduce shipping costs described in column 5, lines 27-55 is a method "To help minimize shipping costs and purchaser confusion" (column 5, line 27); it is not a method for optimizing the results of comparing the items of a multiple item order among a plurality of vendors. Further, in Hartman, the combining of orders to reduce shipping costs is done after multiple single-action orders are placed by the user, rather than before the placing of a single multiple-item order as is claimed in the present invention.

The Examiner also argues:

Therefore it would have been obvious to one of ordinary skill in the art, at the time the invention was made, to allow the user to select a different shipping method such as express mail or overnight mail in the method, system and program of Hartman.

Allowing the user to select a different shipping method does not imply any form of optimization of the results of **comparisons made between multiple vendors** as is claimed; rather, the shipping method is simply another attribute of the order similar to that of payment method, shipping address, billing address, e-mail address, daytime phone number, and so on.

Since Hartman lacks any teaching or suggestion of optimization based on the offerings of specific items by at least two or more vendors, as is claimed herein, the rejection of claims 1, 6, 7, 14, 19, 20, 27, 32, and 33 under 37 U.S.C. §103 based upon Hartman is inappropriate. Accordingly, the Examiner is respectfully requested to reconsider and withdraw the rejection of claims 1, 6, 7, 14, 19, 20, 27, 32, and 33 under 37 U.S.C. §103.

The Applicant refers the examiner to the previous office action for a detailed example pointing out the benefits of the present invention, the problems that it solves, and why Hartman does not solve or address this issue.

Regarding the Examiner's rejection of claims 2, 3, 4, 5, 10-13, 15-18, 23-26, 28-31, and 35-37 under 35 U.S.C. §103 as being unpatentable over Hartman et al. in view of Official Notice, applicant submits "official notice" taken by the Examiner does not teach or suggest a system or technique whereby the offerings of multiple vendors are analyzed to see if they can fulfill an optimal shopping list, based upon optimization criteria provided by the customer, and provides no suggestion to modify Hartman to achieve such a system or technique.

Accordingly, for the reasons set forth above, claims 2, 3, 4, 5, 10-13, 15-18, 23-26, 28-31, and 35-37 patentably define over Hartman and the "Official Notice" taken by the Examiner,

both alone or in combination. Accordingly, the Examiner is respectfully requested to reconsider and withdraw the rejection of claims 2, 3, 4, 5, 10-13, 15-18, 23-26, 28-31, and 35-37 under 35 U.S.C. §103.

Conclusion

The present invention is not taught or suggested by the prior art. Accordingly, the Examiner is respectfully requested to reconsider and withdraw the rejection of the claims. An early Notice of Allowance is earnestly solicited.

A Credit Card Payment Form is enclosed authorizing the payment of the extension fee. The Commissioner is hereby authorized to charge any additional fees associated with this communication to Deposit Account No. 09-0461.

Respectfully submitted

JUNE 9 2005

Date



Mark D. Simpson, Esquire
Registration No. 32,942

SYNNESTVEDT & LECHNER LLP
2600 ARAMARK Tower
1101 Market Street
Philadelphia, PA 19107
Telephone: (215) 923-4466
Facsimile: (215) 923-2189